

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JILL BABCOCK, et al.,

Case No. 2:22-cv-12951

Plaintiffs,

HON. JONATHAN J.C. GREY

v.

STATE OF MICHIGAN, et al.,

Defendants.

_____ /

AMENDED JOINT DISCOVERY PLAN

A Rule 16 Scheduling Conference is scheduled for **May 14, 2024**. Appearing for the parties as counsel will be:

Michael Bartnik, Counsel for Petitioner

Elizabeth Abdnour, Counsel for Petitioner

Kimberly Pendrick, Counsel for State of Michigan

Cassandra Drysdale-Crown, Counsel for State of Michigan

Melvin Butch Hollowell and Angela L. Baldwin, Counsel for Wayne County

Paul Magy and Gregory Longworth for DWJBA

1) **Subjects on which discovery may be needed:**

Plaintiffs' Position

Plaintiffs need to engage in the following discovery as to actional barriers to meaningful access in the buildings and locations remaining, via inspection of premises, production of documents, interrogatories, and depositions: inspection of premises of the sites remaining in the case; Defendants' plans for compliance, including three year plans for each of the relevant sites

including DLZ report and updates; ownership and lease records of the remaining sites; all documentation as to ADA/PDCRA compliance with respect to the remaining sites; State of Michigan communications and directives to Michigan Courts as to ADA/PDCRA compliance and infrastructure; any plans for work which has been completed or is in progress related to ADA/PDCRA compliance in the remaining sites including design and construction; and records pertaining to budgeting, cost estimates and actual costs for ADA/PDCRA compliance and/or remediation in the remaining sites and as to hearing accessibility; defendants' documentation as its affirmative defenses including issues as to "excessive costs" and "fundamental alteration of purposes"

The remaining sites are:

- The CAYMC (Detroit)
- The 54B District Court (Lansing) (id. at ¶ 29)
- The 22nd Circuit Court (Washtenaw)
- The Howell building (Livingston) that houses the 44th Circuit Court and the 53rd District Court
- The Frank Murphy Hall of Justice (Detroit) (Third Circuit Court)
- The 36th District Court
- Spirit Plaza (Detroit)
- The Rosa Parks Transit Center
- The Skywalk between the CAYMC and Millender Center People Mover Station

Plaintiffs oppose Defendants' bifurcated or phased discovery plan suggested below as it significantly reduces Plaintiffs' time to conduct discovery.

Defendants' Position

Defendants object to Plaintiffs' proposed discovery regarding site inspections, plans for compliance, documents regarding ADA/PDCRA compliance, plans for work as to general ADA/PDCRA compliance, and costs regarding ADA/PDCRA compliance. Defendants believe discovery regarding the remaining sites be limited to those accessibility issues that the Plaintiffs allege caused them not to be able to benefit from state and local government programs, services, and activities, within a three-year period prior to the filing

of their complaint. This case is not about providing Plaintiffs with superintending control to determine any and all potential ADA/PDCRA violations and will cause significant delay and costs associated with unactionable claims.

Defendants propose a phased discovery in order for the Court to determine whether the State of Michigan is liable for the circuit and district courts' facilities before discovery regarding the merits commences. This proposal is reflected in the proposed dates within this 26(f) report.

After the Court reaches a decision on this liability issue, discovery will commence regarding any remaining parties as to the following:

- a. Whether the Plaintiffs were denied access to or receipt of services, programs, or activities;
- b. Any alleged damages;
- c. What accessibility issues constitute a reasonable accommodation or undue hardship.

In addition, Defendants may file an early Rule 56 motion.

In addition, DWJBA may file an early Rule 56 motion arguing that (1) DWJBA is liable only for the common areas of CAYMC and (2) Plaintiffs' claims as to the common areas of CAYMC are moot. In the event DWJBA files such a motion, DWJBA asks that the Court require Plaintiffs to identify the discovery they believe is necessary before the Court could rule on the motion and set a limited discovery period for Plaintiffs to complete reasonable discovery on these issues.

- 2) **Disclosure / Discovery of Electronically Stored Information:** The parties have discussed the production of electronically stored information and suggest that such information be handled as follows:

Both parties have ESI which will be subject to disclosure and the parties shall prepare and file a proposed joint ESI order to facilitate the exchange of this information.

3) **Assertion of Claims of Privilege or Work-Product Immunity After Production:**

The parties will prepare and file a proposed joint protective order to address concerns of confidentiality as well as privilege or work product immunity for items inadvertently produced during discovery.

4) **Proposed dates:** The parties recommend the following discovery plan, and acknowledge that if the Court believes that discovery motions have been filed unnecessarily, in bad faith, or for vexatious or tactical reasons, the Court may appoint a Discovery Master to shift the costs of disposing of these motions from the Court to the parties:

Updated Initial Disclosures Due:	05/28/2024
Joinder of Parties must be filed by:	07/01/2024

Plaintiffs recommend the following additional dates:

Initial Witness Lists Due:	01/10/2025
Plaintiff's Expert Disclosures/Reports must be served by:	12/13/2024
Defendant's Expert Disclosures/Reports must be served by:	01/10/2025
Facts Discovery Ends:	03/07/2025
Expert Discovery must be completed by:	03/21/2025
Dispositive Motions Due:	04/11/2025
Motions to Limit/Exclude Expert Testimony Due:	04/25/2025
Exhibit Lists Due:	TBD by Court
Desired Final Pretrial Conference Month:	TBD by Court
Desired Trial Month	TBD by Court

Defendants recommend the following additional dates:

Discovery regarding the State's building liability Ends:	06/30/2024
Discovery for Non-State Defendants commences:	08/01/2024
Dispositive motions as to the State's building liability Due:	08/30/2024
Responses to dispositive motions as to State's liability:	09/20/2024
Replies to dispositive motions as to State's liability:	09/27/2024
Initial Witness Lists Due:	12/02/2024
Plaintiff's Expert Disclosures/Reports must be served by:	11/18/2024

Defendant's Expert Disclosures/Reports must be served by:	12/16/2024
Facts Discovery Ends:	02/02/2025
Expert Discovery must be completed by:	02/16/2025
Early Settlement Conference (before Magistrate Judge)	
Deadline:	Between close of discovery and dispositive motions.
Dispositive Motions Due:	03/18/2025
Motions to Limit/Exclude Expert Testimony Due:	04/01/2025
Exhibit Lists Due:	TBD by Court
Desired Final Pretrial Conference Month:	TBD by Court
Desired Trial Month	TBD by Court

Respectfully Submitted,

Dated: /s/ Michael W. Bartnik
By: Michael W. Bartnik (P32534)
Law For Baby Boomers, PLLC
Attorney for Plaintiffs
41000 Woodward Avenue, Suite 350 Bloomfield
Hills, Michigan 48304
(248) 608-3660
michaelbartnik@protonmail.com

Elizabeth K. Abdnour (P78203)
Renee N. Stromski
Abdnour Weiker, LLP
Attorney for Plaintiffs
500 East Michigan Avenue, Suite 130
Lansing, Michigan 48912
(517) 994-1776
liz@education-rights.com
renee@awlawohio.com

/s/ Kimberly K. Pendrick with permission
By: Kimberly K. Pendrick (P60348)
Cassandra Ann Drysdale-Crown (P64108)
Assistant Attorneys General
Attorneys for Defendant

State of Michigan
3030 West Grand Blvd
Detroit, Michigan 48202
(313) 456-0200
pendrickk@michigan.gov
drysdalecrownc@michigan.gov

/s/ Angela L. Baldwin with permission

By:

Angela L. Baldwin (P81565)
Melvin B. Hollowell (P37834)
The Miller Law Firm
Attorneys for Defendant Wayne County
211 West Fort Street, Suite 705
Detroit, Michigan 48226
(313) 483-0880
mbh@millerlawpc.com
alb@millerlawpc.com

/s/ James Nosedá with permission

By: James Nosedá (P52563)
Deputy Corporation Counsel, City of Detroit
Jesse Halfon (P66936)
Attorneys for Defendant City of Detroit
2 Woodward Avenue, Suite 500
Detroit, Michigan 48226
(313) 237-5244
nosej@detroitmi.gov
jesse.halfon@detroitmi.gov

/s/ Paul S. Magy with permission of Gregory N.
Longworth

By: Paul S. Magy (P34423)
Gregory N. Longworth (P49249)
Clark Hill, PLC
Attorneys for Defendant Detroit-Wayne Joint
Building Authority
151 S. Old Woodward Avenue, Suite 200
Birmingham, Michigan 48009

(248) 988-5844

pmagy@clarkhill.com

glongworth@clarkhill.com